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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,590	01/16/2004	John Edward Ramsey	HEND-AS	8000
24120	7590	09/08/2006	EXAMINER	
DAVID P DURESKA BUCKINGHAM DOOLITTLE & BURROUGHS, LLP 4518 FULTON DRIVE, NW P O BOX 35548 CANTON, OH 44735-5548			SPISICH, GEORGE D	
			ART UNIT	PAPER NUMBER
			3616	
DATE MAILED: 09/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/759,590

Applicant(s)

RAMSEY, JOHN EDWARD

Examiner

George D. Spisich

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on June 15, 2006 (mailed 6/12/06).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 16, 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the pivot bolt movement means being a second bolt which is vertically disposed" as claimed in claim 6 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6, lines 1-4 are unclear. It is unclear to claim that the bolt movement means is a second vertically disposed bolt.

Examiner is unclear how the pivot bolt movement means is a second bolt. Furthermore, the phrase "vertically disposed" means the bolt shaft is vertical. It is not clear from the specification or drawings where or what the vertically disposed second bolt is for moving the pivot bolt. Applicant may not claim the same element as both a pivot bolt and a second bolt for moving the pivot bolt.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art in Figures 1-4B in view of Lundin et al. (USPN 4,614,359).

Applicant's Admitted Prior Art (AAPA) shows a suspension arrangement including an axle for a trailer of a tractor-trailer combination, the trailer including a floor mounted on a longitudinally extending frame of the trailer (inherent), the suspension arrangement includes a pair of transversely spaced suspension assemblies, each one of the suspension assemblies includes a longitudinally extending beam, the beams capturing a transversely extending axle, means for pivotally mounting each one of the beams on a bracket mounted on and depending from the trailer frame, the pivotal means including a bolt passing through aligned openings formed in a pair of transversely-spaced inboard and outboard sidewalls of the bracket and being secured thereto with a nut.

AAPA discloses an eccentric collar through which the bolt passes. There are guide tabs that extended outboardly from the outboard sidewall, and the openings are oval-shaped. The bolt and the tabs allow for the adjustment of the axle. The bracket is a generally U-shaped integral one-piece member having a pair of transversely spaced sidewalls interconnected with a sidewall.

AAPA discloses a generally U-shaped integral one-piece bracket having a pair of transversely spaced sidewalls interconnected with a wall. The wall of AAPA is arranged to the rear, however it would have been obvious to one of ordinary skill in the art at the time the invention was made to reverse the orientation of the axle beam and bracket direction, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Examiner interprets AAPA to have all the elements of Applicant's invention, however, Applicant's invention rotates AAPA so as to have a vertical orientation of the openings and vertically spaced and longitudinally extending guide tabs that allow for the vertical adjustment of the bolt to allow for the leveling of the trailer floor.

Lundin et al. disclose a suspension arrangement (as best seen in Figures 3-5) that show a height adjustable suspension arm mount or bracket having a vertical oval shaped opening (64) and a bolt (66) disposed in the opening and an eccentric collar (or washes) (74) that (see col. 4, lines 19-42) by rotating the bolt and due to the eccentricity of the washers/collars the suspension is raised or lowered. It is disclosed that this height adjustment is used to also effect the trim (which is the level attitude) of the vehicle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the AAPA suspension and axle arrangement by not only reversing the bracket and axle arrangement as discussed above, but allowing for a vertical adjustment as taught by Lundin et al. and rotating the arrangement already disclosed in the AAPA so as to provide such an adjustment for transversely horizontally leveling a trailer floor.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art in Figures 1-4B in view of AU 657128 (provided in Applicant's IDS).

Applicant's Admitted Prior Art (AAPA) has been discussed in the prior rejection.

Examiner interprets AAPA to have all the elements of Applicant's invention, however, Applicant's invention rotates AAPA so as to have a vertical orientation of the openings and vertically spaced and longitudinally extending guide tabs that allow for the vertical adjustment of the bolt to allow for the leveling of the trailer floor and reverses the orientation of the bracket and longitudinally extending arms.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reverse the orientation of the axle beam and bracket direction, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

AU '128 discloses a suspension arrangement having plural longitudinal suspension arms (18,19). The outer arm has a horizontal adjustment similar to the AAPA. The inner arm has a vertical adjustment. AU '128 teaches the adjustment of both horizontal and vertical adjustment and the ability to "rotate" one (a horizontal) adjustment feature to provide for vertical adjustment.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to not only reverse the orientation of the mounting bracket and axle as addressed above, but also to rotate the horizontal opening and guide tab adjustment arrangement of AAPA so as to be vertical as taught by AU '128 so as to provide vertical adjustment of a suspension element. This adjustment would allow in operation the transverse horizontal leveling of a trailer floor such in AAPA.

***Response to Arguments***

Applicant's arguments filed June 15, 2006 (mailed 6/12/06) have been fully considered but they are not persuasive.

With respect to Applicant's argument that Lundin cannot be used to teach or suggest vertical adjustment of the pivot bolt and the beam capturing an axle at the pivot, Examiner disagrees and maintains the rejection. Lundin is used properly to teach the use of a vertically adjustable bolt which adjusts the height/level of a vehicle. Lundin would therefore teach the rotation of the AAPA bracket and adjustment (which allows for the vertical adjustment of the pivot bolt) as a means to raise the suspension arm and the adjust the height/level of the trailer.

With respect to Applicant's argument that the Lunden teaching is in a different field since it relates to an automotive suspension having a transverse control arm and does not properly relate to trailer of a tractor-trailer having a longitudinal control arm, Examiner disagrees and maintains the rejection. Again, Lundin merely teaches adjusting a control arm to adjust the height/level of the vehicle. Whether the vehicle be a automobile or a trailer or the adjustment made by manipulating a lateral or longitudinal control arm is irrelevant. Examiner maintains that the suspension of Lundin proper teaches the modification of the AAPA so as to provide for vertical adjustment of the pivot bolt. Examiner adds that AAPA already provides for horizontal movement in particular manner and modifying the arrangement as taught by Lundin for provide for a similar movement in a vertical direction and adjust for height/level as taught by Lundin.



With respect to Applicant's argument that AU '128 does not provide for vertical adjustment of the beam but instead adjusts the camber of a stub axle of a vehicle, Examiner disagrees and maintains the rejection. AU '128 is merely used to show that a similar connection point of a control arm can be adjusted in a vertical manner where the pivot bolt moves vertically during the adjustment. Examiner maintains that AU '128 would teach that providing the connection of AAPA in a vertical manner would provide a means for vertical adjustment of the control arm and inherently provide a means for adjusting the height/level of the trailer of AAPA.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (571)


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272-6676. The examiner can normally be reached on Monday-Friday 9:00 to 6:30 except alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George D. Spisich  
August 21, 2006



**DAVID R. DUNN**  
**PRIMARY EXAMINER**